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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,279	05/05/2005	Silvia Fonquerna Pou	09605.0001	1079

22852 7590 02/04/2009  
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WASHINGTON, DC 20001-4413

EXAMINER
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GALLIS, DAVID E

ART UNIT	PAPER NUMBER
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1625

MAIL DATE	DELIVERY MODE
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02/04/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/509,279	<b>Applicant(s)</b> POU ET AL.	
	<b>Examiner</b> David Gallis	<b>Art Unit</b> 1625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-22 and 28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 2,3,5-22 and 28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 1 through 3, 5-22, and 28 are pending. Applicants' claim to priority from foreign application SPAIN P200200753 filed April 1, 2002 is acknowledged.

#### ***Claim Rejections/Objections Withdrawn***

2. The rejections of claims 1 through 3, 5 through 7, 12, 15 through 19, 21 and 28 under 102 (a) over Cai et al. is withdrawn since the definition of R<sub>2</sub> has been amended to exclude H atom. The rejections of claims 1 through 3, 5 through 7, 12, 15 through 19, 21 and 28 under 35 U.S.C. 102(b) over Filla et al. is withdrawn since the definition of R<sub>2</sub> has been amended to exclude H atom.

#### ***Claim Rejections/Objections Maintained/ New Grounds of Rejection***

3. The rejection of claim 1 under 35 U.S.C. 112 2<sup>nd</sup> paragraph as being indefinite is maintained. The applicants' representative has agreed with the examiner's conclusion that the definition of p as 0 when L2 is a bond does not describe anything and creates a dangling valence (See Ex Parte Diamond (POBA 1959) 123 USPQ 167). Applicants' representative has argued a limitation not in the claims, namely that when L2 is a bond p is not 0.

This application contains claim 2 (when more than one of A, B, D, E is nitrogen) is drawn to an invention nonelected with traverse in the reply filed on April 14, 2008. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01. An objection to claim 2 is raised for this reason.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 1 recites  $R_2$  to represent  $L_3-(W_2)_p$ , wherein  $L_3$  can be a single bond and  $p$  can be equal to 0. Such a group represents an unassociated single bond (a single bond with nothing attached). Correction or clarification is required.

### ***Claim Objections***

5. Claims 3, 5-22 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claim 2 is objected to for being drawn to a non-elected invention.

### ***Conclusions***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David K. O'Dell whose telephone number is (571)272-9071. The examiner can normally be reached on Mon-Fri 7:30 A.M.-5:00 P.M EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres can be reached on (571) 272-0684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Janet L. Andres/  
Supervisory Patent Examiner, Art Unit  
1625

/David K. O'Dell/  
Examiner, Art Unit 1625